

lateral support for the torso of the person seated in the chair. Figs. 4-6 show variations of the front support and the chair back for securing the torso of a person in the chair.

*Preston* discloses a bed that has a rocking frame comprised of a frame structure 28, 29, 30. The drive for this frame is comprised of an electric motor 37, a hydraulic motor 39, a winch 42, pulleys 45, 47, and a cable 46 that is connected to the frame parts 30 and guided about the pulleys 45, 47. Rotation of the pulley 45 causes the cable 46 to be extended or shortened thereby causing a rocking motion of the frame.

Examiner argues that it would have been obvious to a person skilled in the art to incorporate the *Preston* driving means to the base of *Maymon's* seat in order to allow the seating surface to move in a periodic, continuous and cyclical movement.

It is respectfully submitted that according to MPEP 2142 ESTABLISHING A *PRIMA FACIE* CASE OF OBVIOUSNESS

"..., three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

The cited patent to *Maymon* refers to a chair for paraplegics or quadriplegics. The users sit upright and are held between the chair back and the front support (see Abstract). The sides of the chair back 60 are curved so that in cooperation with the curved sides 84, 95 of the front support 90 the torso of a person with spinal cord injury is held up straight (see col. 3, lines 28-32; col. 4, lines 6-11). The chair is designed to securely hold a person with spinal cord injury who cannot sit up by himself in a stable, upright position. There is no motivation to provide such a chair with a moving seat.

The bed with rocking frame according to *Preston* provides a back and forth movement like a rocking chair. The rocking drive is large, heavy and complex. There is no motivation to employ such a large, complex drive unit on a much smaller chair. *Preston* discloses no particular benefits of such a rocking bed that would motivate a person skilled in the art to use this rocking drive on a chair.

In particular, there is no motivation to employ such a drive on the chair of *Maymon* that is specifically designed to securely hold a paraplegic or quadriplegic person who

cannot sit upright on his own. Causing a rocking motion of the seat of *Maymon* is contrary to the goal of enabling a person with spinal injury to safely sit in a chair. Note that the front support 90 is mounted on seat 40 so that a rocking motion of seat 40 would cause the front support 90 to move with the seat and the person would no longer be secured between front support 90 and chair back 60 and could slump sideways or even fall from the chair or be squeezed between the curved sides 94, 95; 63, 64 as the seat 40 rocks back.

There is no teaching or suggestion in the cited references to make the claimed combination. There is no reasonable expectation of success to be found in the prior art teachings of the two references to attempt the claimed combination. The examiner arrives at the conclusion of obviousness only in hindsight and in knowledge of applicant's invention as there is no motivation to provide the chair of *Maymon* with a seating surface that can move in a periodic, continuous, cyclical movement.

Reconsideration and withdrawal of the rejection of the claims 12, 19-29, 31, 33-40 pursuant to 35 USC 103 are therefore respectfully requested.

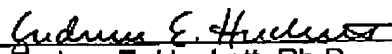
#### CONCLUSION

In view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Should the Examiner have any further objections or suggestions, the undersigned would appreciate a phone call or e-mail from the examiner to discuss appropriate amendments to place the application into condition for allowance.

Authorization is herewith given to charge any fees or any shortages in any fees required during prosecution of this application and not paid by other means to Patent and Trademark Office deposit account 50-1199.

Respectfully submitted on November 7, 2005,

  
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